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June 11, 2014

To: Joint Guam Program Office Forward
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Office of the Governor of Guam
Attn: Military Buildup Office (Mark Calvo)
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Subject: Department of Corrections Input / Comment on the
Draft Supplemental Environmental Impact Statement (SEIS)

The following general comments are provided for your review and consideration:

Upon reviewing the draft 2014 Supplemental Environmental Impact Statement (SEIS) the projected military relocation population is estimated at 5,000 U.S. Marines and 1,300 dependents. When compared with the 2010 final EIS, the military relocation population was pegged at 8,600 U.S. Marines and 9,000 dependents. This difference in the military relocation population appears to imply that the military population cited in the 2014 SEIS are primary single servicemen compared to a more family oriented 2010 population. This analysis is based on a much higher difference between active military and dependent population numbers.

Based upon local media reports and reported local demonstrations in Okinawa prior to the decision in relocating the U.S. Marines to Guam an alarming crime rate committed by military personnel in civilian areas was one of the major issues that fueled civilian pressure in calling for the relocation of this U.S. Marine contingent in Okinawa. Depending on who is providing the response to this issue the gravity and seriousness of these alleged violations of local law were a matter of great debate between the civilian and military communities. Though the frequency and level of criminal allegations are debatable the issue that crime is an issue between the military and civilian communities is an accepted reality for both sides.

As for Guam, it's anticipated that a large number of young military personnel will frequent the night life of Guam's bars and lounges which will unavoidably be in contact with the local crowd

that will also be patronizing these very establishments. This local crowd unlike the local Okinawans are more incline to openly confront military personnel who may not understand or respect the local population or culture. This will definitely result in a higher number of calls for police service and also arrests of both civilian and military personnel. The rate of arrests which will definitely impact the operations of the Department of Corrections is difficult to quantify without knowing pertinent factors such as the frequency of law enforcement presence in these anticipated hot spots or other preventives measures planned by military and civilian law enforcement.

Another factor to consider is that military personnel just like our tourist population will also be targets of robbery and other crimes which will also be a factor that will definitely impact the operations of the Department of Corrections.

The exact initial impact of the anticipated military buildup may be difficult to quantify at this time, however, any impact be it large or small from this buildup will adversely affect our current operations which is already being unfavorably impacted from the following issues:

- As of April 2014, the Department of Corrections is operating at an overall two hundred and eighty-two percent (282%) above its rated capacity.
- The Tuberculosis (TB) outbreak linked to an FSM citizen incarcerated as a pretrial detainee has seriously impeded our day to day operations and has seriously taxed our operating budget.
- Critical shortages in both uniform and civilian personnel has undesirably restricted our ability to decisively address operational issues and goals.
- The difficulties in meeting the demands of the U.S. Department of Justice based on civil case CIV91-000020 continues to plague the government of Guam and to date, the Department of Corrections remains in noncompliance status.

The current overcrowding issue at DOC ranks as a critical deficiency that must be addressed immediately. The military buildup will definitely exasperate Guam's prison overcrowding condition to a point that may parallel that of the State of California. The California Supreme Court has order the State to reduce its prison population because of their overcrowded conditions which has been ruled as cruel and unusual punishment in violation of the Eighth Amendment of the U.S. Constitution.

The Department of Corrections will also like to request an additional two million dollars (\$2,000,000.00) which will be used to recruit critical civilian and uniform personnel, supplies and equipment directly related to the Department's operational needs. Our Department is prepared to provide a budget breakdown of how these funds will be expended in preparation of the military buildup.

The following specific comments with cited pages are provided for your review and consideration:

Page 4-121. "Public Safety"

Under Public Safety paragraph, in all instances, Guam Homeland Security/Office of Civil Defense, Guam Customs and Quarantine Agency, Guam Commercial Port Police, Guam International Airport Police were exclude in the impact analysis. These Public Safety entities have both a direct and indirect impact on the operations of DOC which is a matter of public record and are directly linked with DOC within the Guam criminal justice system.

Page 4-121. The staffing numbers identified were not the same number used to calculate the additional staff needed on page 4-144.

Page 4-121 indicates that there are 195 personnel that work in custody and security, but page 4-144, Table 4.1.15-21 contradicts this number by indicating 207 as the number of custody and security personnel. This Table further states that a maximum of 11 custody and security personnel would be needed during maximum impact and 10 such personnel will be needed during the stabilization of the population impact. The fallacy of this analysis and projection is that it assumes that only the security and custody components of DOC would be affected by the population impact. It fails to recognize that DOC constitutes various separate and distinct Divisions with specific services and responsibilities for each inmate and detainee mandated by various Local and Federal statutes to include the U.S. Constitution. The following are a few rights guaranteed to both pretrial detainees and convicted inmates:

- ✓ Disabled prisoners are entitled to assert their rights under the Americans with Disabilities Act to ensure that they are allowed access to prison programs or facilities that they are qualified and able to participate in.
- ✓ Inmates are entitled to medical care and attention as needed to treat both short-term conditions and long-term illnesses. The medical care provided must be "adequate."
- ✓ Inmates who need mental health care are entitled to receive that treatment in a manner that is appropriate under the circumstances. The treatment must also be "adequate."
- ✓ Inmates have the right to be free from racial segregation in prisons, except where necessary for preserving discipline and prison security.
- ✓ Inmates are entitled, under the Due Process Clause of the Constitution, to be free from unauthorized and intentional deprivation of their personal property by prison officials.
- ✓ The Supreme Court has held that inmates who are the subject of disciplinary investigations or proceedings are entitled to advance written notice of the claimed violation and a written statement of the facts, evidence relied upon, and the reason for the action taken. The inmate is also entitled to call witnesses and present documentary evidence if allowing him to do so would not risk order, discipline, and security. In that regard, inmates are rarely

allowed to confront and cross-examine adverse witnesses in an internal disciplinary proceeding.

In order to facilitate not only the security aspects of DOC but to also ensure that Guam is in compliance with mandated rights that all prisoners are entitled, various Divisions at DOC must work together. To limit the required staffing to only custody and security personnel considerably destabilizes the Department of Corrections abilities to accomplish its mandated mission and conformance with Federal statutes and the U.S. Constitution.

Page 4-127. "No potential mitigation is proposed, as the population increase would not likely result in a considerable increase in demand on Guam's public services and permitting agencies, and the estimated increases in GovGuam tax revenues would likely compensate for any increased demand on public services that would occur."

This statement contradicts impacts to public safety services as defined on page 4-144. Impacts to public safety agencies were determined to be significant in both the short-term and long term. It is a given that no matter what the size of this proposed population there will be an impact on the public safety services Guam currently provides. In addressing Guam's financial need and burden due to this impact and to simply take the position that revenues generated from this growth will be sufficient to cover all areas impacted by the military population growth is unrealistic at best and is not in Guam's best interest.

Page 4-138 Table 4.1.15-12

This Table predicts that during the maximum impact period only 30 will either be processed as a pretrial detainee or inmate and during the steady period of this impact only 26 will be processed as a pretrial detainee or inmate of the Department of Corrections. When you take this projection and compare it with Table 4.1.15-2 page 4-127 this projection covers a total of 14 years which is from 2014 to 2028. Based on DOC's current growth rate for the past five years and taking into account that DOC unlike **any** of its mainland counterparts is also responsible for all federal and local pretrial detainees this prediction is unrealistic at best.

Page 4-139. "The JoG and other selected agencies (GDPR and GPLS) would experience the largest impact of any of the groups, on a percentage basis, ..."

I can understand and agree with the Judiciary of Guam being one of the agencies having the largest impact in this proposed military population increase but I do not comprehend the Guam Department of Parks and Recreation (GDPR) and the Guam Public Library System (GPLS) bouncing out the Guam Police Department and the Guam Department of Corrections. Based on the earlier analysis of the composition of the U.S. Marines being projected to be relocated to Guam this contingent appears to be a majority single, first or second enlistment personnel. The majority of these U.S. Marines are expected to frequent local bars, adult exotic dance shows, and other similar entertainment establishments and not be over using our local parks and the library in Hagåtña. This again falls short of the true impact of the projected military growth by this SEIS.

If you have any questions regarding these comments, do not hesitate to contact me.

Senseramente,



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Director